

AMENDED IN ASSEMBLY JULY 7, 2011

AMENDED IN ASSEMBLY JUNE 22, 2011

AMENDED IN SENATE APRIL 13, 2011

SENATE BILL

No. 619

Introduced by Senator Fuller

(Coauthor: Assembly Member Portantino)

February 18, 2011

An act to amend Section 94874 of, and to repeal Section 94874.3 of, the Education Code, relating to private postsecondary education, *and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

SB 619, as amended, Fuller. California Private Postsecondary Education Act of 2009: exemptions.

Existing law, the California Private Postsecondary Education Act of 2009, provides, among other things, for student protections and regulatory oversight of private postsecondary schools in the state. The act is enforced by the Bureau for Private Postsecondary Education within the Department of Consumer Affairs. The act exempts specified institutions from its provisions.

This bill would exempt from the act ~~flight-instructors-and-flight schools~~ *instruction providers or programs* that provide flight instruction pursuant to Federal Aviation Administration regulations and meet specified criteria.

The act prohibits the bureau, for the period of July 1, 2010, to July 1, 2011, inclusive, from enforcing the act against institutions engaged in flight instruction and aircraft maintenance education, as specified, if

those institutions notify the bureau that they are in operation during that time period.

This bill would repeal that provision.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: ~~majority~~^{2/3}. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 94874 of the Education Code is amended
2 to read:
3 94874. The following are exempt from this chapter:
4 (a) An institution that offers solely avocational or recreational
5 educational programs.
6 (b) An institution offering educational programs sponsored by
7 a bona fide trade, business, professional, or fraternal organization,
8 solely for that organization's membership.
9 (c) A postsecondary educational institution established, operated,
10 and governed by the federal government or by this state or its
11 political subdivisions.
12 (d) An institution offering either of the following:
13 (1) Test preparation for examinations required for admission to
14 a postsecondary educational institution.
15 (2) Continuing education or license examination preparation,
16 if the institution or the program is approved, certified, or sponsored
17 by any of the following:
18 (A) A government agency, other than the bureau, that licenses
19 persons in a particular profession, occupation, trade, or career field.
20 (B) A state-recognized professional licensing body, such as the
21 State Bar of California, that licenses persons in a particular
22 profession, occupation, trade, or career field.
23 (C) A bona fide trade, business, or professional organization.
24 (e) (1) An institution owned, controlled, and operated and
25 maintained by a religious organization lawfully operating as a
26 nonprofit religious corporation pursuant to Part 4 (commencing
27 with Section 9110) of Division 2 of Title 1 of the Corporations
28 Code, that meets all of the following requirements:

1 (A) The instruction is limited to the principles of that religious
2 organization, or to courses offered pursuant to Section 2789 of
3 Business and Professions Code.

4 (B) The diploma or degree is limited to evidence of completion
5 of that education.

6 (2) An institution operating under this subdivision shall offer
7 degrees and diplomas only in the beliefs and practices of the
8 church, religious denomination, or religious organization.

9 (3) An institution operating under this subdivision shall not
10 award degrees in any area of physical science.

11 (4) Any degree or diploma granted under this subdivision shall
12 contain on its face, in the written description of the title of the
13 degree being conferred, a reference to the theological or religious
14 aspect of the degree's subject area.

15 (5) A degree awarded under this subdivision shall reflect the
16 nature of the degree title, such as "associate of religious studies,"
17 "bachelor of religious studies," "master of divinity," or "doctor of
18 divinity."

19 (f) An institution that does not award degrees and that solely
20 provides educational programs for total charges of two thousand
21 five hundred dollars (\$2,500) or less when no part of the total
22 charges is paid from state or federal student financial aid programs.
23 The bureau may adjust this cost threshold based upon the California
24 Consumer Price Index and post notification of the adjusted cost
25 threshold on its Internet Web site, as the bureau determines,
26 through the promulgation of regulations, that the adjustment is
27 consistent with the intent of this chapter.

28 (g) A law school that is accredited by the Council of the Section
29 of Legal Education and Admissions to the Bar of the American
30 Bar Association or a law school or law study program that is
31 subject to the approval, regulation, and oversight of the Committee
32 of Bar Examiners, pursuant to Sections 6046.7 and 6060.7 of the
33 Business and Professions Code.

34 (h) A nonprofit public benefit corporation that satisfies all of
35 the following criteria:

36 (1) Is qualified under Section 501(c)(3) of the United States
37 Internal Revenue Code.

38 (2) Is organized specifically to provide workforce development
39 or rehabilitation services.

1 (3) Is accredited by an accrediting organization for workforce
2 development or rehabilitation services recognized by the
3 Department of Rehabilitation.

4 (i) An institution that is accredited by the Accrediting
5 Commission for Senior Colleges and Universities, Western
6 Association of Schools and Colleges, or the Accrediting
7 Commission for Community and Junior Colleges, Western
8 Association of Schools and Colleges.

9 (j) An institution that satisfies all of the following criteria:

10 (1) The institution has been accredited, for at least 10 years, by
11 an accrediting agency that is recognized by the United States
12 Department of Education.

13 (2) The institution has operated continuously in this state for at
14 least 25 years.

15 (3) During its existence, the institution has not filed for
16 bankruptcy protection pursuant to Title 11 of the United States
17 Code.

18 (4) The institution's cohort default rate on guaranteed student
19 loans does not exceed 10 percent for the most recent three years,
20 as published by the United States Department of Education.

21 (5) The institution maintains a composite score of 1.5 or greater
22 on its equity, primary reserve, and net income ratios, as provided
23 under Section 668.172 of Title 34 of the Code of Federal
24 Regulations.

25 (6) The institution provides a pro rata refund of unearned
26 institutional charges to students who complete 75 percent or less
27 of the period of attendance.

28 (7) The institution provides to all students the right to cancel
29 the enrollment agreement and obtain a refund of charges paid
30 through attendance at the second class session, or the 14th day
31 after enrollment, whichever is later.

32 (8) The institution submits to the bureau copies of its most recent
33 IRS Form 990, the institution's Integrated Postsecondary Education
34 Data System Report of the United States Department of Education,
35 and its accumulated default rate.

36 (9) The institution is incorporated and lawfully operates as a
37 nonprofit public benefit corporation pursuant to Part 2
38 (commencing with Section 5110) of Division 2 of Title 1 of the
39 Corporations Code and is not managed or administered by an entity
40 for profit.

1 (k) ~~Flight instructors or flight schools~~ *instruction providers or*
2 *programs* that provide flight instruction pursuant to Federal
3 Aviation Administration regulations and meet both of the following
4 criteria:

5 (1) The ~~flight instructor or flight school~~ *instruction provider or*
6 *program* does not require students to enter into written or oral
7 contracts of indebtedness.

8 (2) The ~~flight instructor or flight school~~ *instruction provider or*
9 *program* does not require prepayment of ~~tuition or fees~~ and ~~does~~
10 ~~not accept prepayment of tuition or fees~~ *instruction-related costs*
11 in excess of two thousand five hundred dollars (\$2,500).

12 SEC. 2. Section 94874.3 of the Education Code is repealed.

13 SEC. 3. *This act is an urgency statute necessary for the*
14 *immediate preservation of the public peace, health, or safety within*
15 *the meaning of Article IV of the Constitution and shall go into*
16 *immediate effect. The facts constituting the necessity are:*

17 *In order to establish an exemption from the California Private*
18 *Postsecondary Education Act of 2009 for flight instruction*
19 *providers and programs that provide flight instruction pursuant*
20 *to Federal Aviation Administration regulations, soon after a similar*
21 *exemption expired on July 1, 2011, it is necessary that this act take*
22 *effect immediately.*